

## Small Business Administration

## § 125.19

(5) Where the contracting officer explicitly requires concerns to recertify their status in response to a solicitation for an order, SBA will determine eligibility as of the date the concern submits its self-representation as part of its response to the solicitation for the order.

(6) A concern's status may be determined at the time of a response to a solicitation for an Agreement and each order issued pursuant to the Agreement.

[69 FR 25268, May 5, 2004, as amended at 70 FR 14527, Mar. 23, 2005; 78 FR 61143, Oct. 2, 2013]

### **§ 125.16 Does SDVO SBC status guarantee receipt of a contract?**

No, SDVO SBCs should market their capabilities to appropriate procuring agencies in order to increase their prospects of having a procurement set-aside for SDVO contract award.

### **§ 125.17 Who decides if a contract opportunity for SDVO competition exists?**

The contracting officer for the contracting activity decides if a contract opportunity for SDVO competition exists.

### **§ 125.18 What requirements are not available for SDVO contracts?**

A contracting activity may not make a requirement available for a SDVO contract if:

(a) The contracting activity otherwise would fulfill that requirement through award to Federal Prison Industries, Inc. under 18 U.S.C. 4124 or 4125, or to Javits-Wagner-O'Day Act participating non-profit agencies for the blind and severely disabled, under 41 U.S.C. 46 *et seq.*, as amended; or

(b) An 8(a) participant currently is performing that requirement or SBA has accepted that requirement for performance under the authority of the section 8(a) program, unless SBA has consented to release of the requirement from the section 8(a) program.

### **§ 125.19 When may a contracting officer set-aside a procurement for SDVO SBCs?**

(a) The contracting officer first must review a requirement to determine

whether it is excluded from SDVO contracting pursuant to § 125.18.

(b) *Contracting Among Small Business Programs.*

(1) *Acquisitions Valued At or Below the Simplified Acquisition Threshold.* The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Micro-purchase Threshold but not exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. This requirement does not preclude a contracting officer from making an award to a small business under the 8(a) BD, HUBZone, SDVO SBC or WOSB Programs.

(2) *Acquisitions Valued Above the Simplified Acquisition Threshold.* (i) The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. However, after conducting market research, the contracting officer shall first consider a set-aside or sole source award (if the sole source award is permitted by statute or regulation) under the 8(a) BD, HUBZone, SDVO SBC or WOSB programs before setting aside the requirement as a small business set-aside. There is no order of precedence among the 8(a) BD, HUBZone, SDVO SBC or WOSB programs. The contracting officer must document the contract file with the rationale used to support the specific set-aside, including the type and extent of market research conducted. In addition, the contracting officer must document the contract file showing that the apparent successful offeror's certifications in System for Award Management (SAM) (or any successor system) and associated representations were reviewed.